

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN BOB DAVIES**, on February 12, 2001 at
9:05 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. Bob Davies, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Monica Lindeen (D)
Sen. Bea McCarthy (D)
Sen. Corey Stapleton (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Brown, Legislative Branch
Cyndie Lockett, Committee Secretary
Amy Sassano, OBPP

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Judiciary, 2/12/2001
Executive Action:

{Tape : 1; Side : A; Approx. Time Counter : 0 - 30}

HEARING ON JUDICIAL BRANCH

Dave Brown, Legislative Fiscal Division opened the meeting with a quick overview of the Judicial Branch. He provided handouts **EXHIBIT(jgh35a01)**, **EXHIBIT(jgh35a02)** and explained them to the subcommittee. He also explained the order of pages in the LFD Budget Analysis book on the Judicial Branch.

Karla M. Gray, Chief Justice opened the discussion on the Judicial Budget. She provided a handout **EXHIBIT(jgh35a03)** of the presentation and referred to a blue handout **EXHIBIT(jgh35a04)** in her discussion on DP 2001 and DP 1001.

Lisa Smith, Acting Court Administrator presented the majority of the Judicial Budget following a handout **EXHIBIT(jgh35a05)**. She provided an overview of the Montana Judiciary and went into further detail in EXHIBIT (4). EXHIBIT (5) also referred to the Montana Supreme Court FTE and caseload. She went over the summary of decision packages in EXHIBIT (5).

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Mrs. Smith continued her presentation on the decision packages. She discussed Multi-County Jurisdictions and how judges have to travel between counties. **Mrs. Smith** indicated it is less expensive to pay for lease vehicles than to pay per mileage cost for Judge's vehicles. When preparing their budget proposal, they had seven vehicles costing \$302.00 per month per vehicle. They solicited the Department of Administration for cars and their charge is \$412.00 per month per vehicle. She indicated they are \$10,000 over budget for those vehicles. She also indicated options, including funding reductions elsewhere, or reductions to two vehicles.

Sen. Stapleton asked how many District Court Judges they have.

Mrs. Smith answered they have eight. He then asked why not just use a motor pool? **Mrs. Smith** indicated the rural areas often do not have access to it.

Sen. McCarthy indicated most judges probably would rather use their own vehicle so the Judiciary should develop a mileage program with Judges. **Mrs. Smith** indicated they would.

Mrs. Smith commented the vacancy savings recommended for the agency. Half of their FTE are elected officials and statutorily

they cannot reduce their salaries. Therefore, the staff available to apply the vacancy savings to is much smaller than numbers indicate.

Sen. McCarthy asked how many clerks do they currently have? **Mrs. Smith** answered 14 law clerks, two per Justice.

Sen. Stapleton asked **Chief Justice Karla Gray** if they had the ability to not hear a case? **Justice Gray** indicated no but stated this is because they have no intermediate court of appeal and must take the case and decide it. This is why their case load is so large. She makes one change on the blue sheet EXHIBIT (4). The statement indicating backlog of unwritten opinions taking six-months to a year from filing to opinion is incorrect. The six-months to a year is the time the case actually is assigned for author by a justice. There is an up-front time period awaiting the district court record arrived with transcripts completed by the court reporter. There is also a delay waiting for lawyers to file briefs. Only after the up-front period does the court actually get the case for a decision. At that point the six months to a year starts to run.

Mr. Brown pointed out on the orange sheet EXHIBIT (5) that DP 1001 the amount of \$714,062 is the original request. The Martz budget would be \$202,356. Most of the numbers on this page are the Martz numbers. Also, on DP 1104 the new proposal should be \$12,000 for biennium. He indicated there is a comparison on caseload information on page A-17 in the LFD Budget Analysis book.

Rex Rank, Deputy Clerk of the Supreme Court indicated he recognized the budget constraints and intended to make his presentation brief and narrowly focused. He provided a handout, **EXHIBIT (jgh35a06)** for his presentation. He discussed the clerk's his staff and how they need more FTE's. They received no new staff for the expanded court in 1981, remaining unchanged until July 1999, when a half-time staff employee was added.

Sen. Stapleton requested information on the clerk's responsibilities. **Mr. Rank** indicated they provides primary service to the bulk of the court and public sector. They manage and track the appeals. The clerk's office manages all inquiries by phone, fax, and mail from the attorneys and the public regarding cases and rules of procedure. **Sen. Stapleton** questioned why this is an elected position? **Mr. Rank** stated that this position is voted on by the public so they are guaranteed access to the court, and the Montana Judiciary has a long tradition of elected clerk's.

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{Tape : 2; Side : A; Approx. Time Counter : 0 - 30}

Mr. Rank continued his presentation. He indicated staffing is compounded by the technology needs of the Supreme Court. They use 5.1 for DOS which is 12 years old. They make tally marks to do statistics. The Clerk of Court has a new database case-management system, but will not operate without an upgrade to current computer equipment.

Linda St. Peter, Private Attorney testifying on behalf of the Clerk of Court. She stated they had three District Court Judges come up for reelection last fall and she likes to be an informed voter. **Mrs. St. Peter** called to find out information on these Judges including reversal and affirmed records. She could not get an answer, so she went to the local District Clerk and asked for the records. They couldn't give her that answer so she asked who had the record. No one seemed to know. **Mrs. St. Peter** stated that these District Court Judges are elected officials and every elected official in the state has a record. She felt this case management system would really help the Clerk, but it would work more importantly with establishing a record for Judges. The case management system could track different kinds of cases and answer questions on why the caseload is increasing. She stated accountability equals fiscal responsibility.

Judith Meadows, State Law Librarian discussed the Law Library and the changes that have occurred. She distributed a handout **EXHIBIT (jgh35a07)** that showed their internet site and their ability to scan. She indicated said good information helps make good decisions. Different folks voluntarily search law information.

{Tape : 2; Side : B; Approx. Time Counter : 30 - 60}

Mrs. Meadows discussion of the handout **EXHIBIT (7)** to the subcommittee. She provided another handout **EXHIBIT (jgh35a08)** addressing the effect of inflation on legal information. She also discussed her four decision packages and one new proposal.

Sen. McCarthy questioned how long it takes to post an Appellate Court opinion on the internet? **Mrs. Meadows** indicated about four hours. **Sen. McCarthy** asked about posting an opinion from district court. **Mrs. Meadows** replied district court opinions are not published because they do not have presidential value.

Honorable Bruce Loble, Chief Water Judge discussed water rights and how they are managed in the Montana Water Court. He provided background on the water court and historical information on water

rights. He stated water is distributed on a priority basis meaning "First in Time is First in Line". When there is a water shortage the person that has a junior priority date must cut off water use. He provided an example of a water right issue.

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Judge Loble continued with the water rights presentation.

Sen. Stapleton asked if water rights are assignable especially when someone sells their place. **Judge Loble** answered that water rights are freely transferable.

Chairman Davies said there is generally a lot of antagonism with water rights. **Judge Loble** said the antagonism increases during a drought.

Judge Loble finished the presentation by discussing the water court's three decision packages.

Mrs. Smith asked if the subcommittee would allow testimony for the Citizens Review Board. **Chairman Davies** indicated yes.

Judge John Larsen, District Court Judge from Missoula spoke in favor of the Citizens Review Board.

Judy Jacobson, Chief Executive of Butte Silver Bow spoke in favor of the Citizens Review Board.

Jack Whalen, Judge in Butte Silver Bow spoke in favor of the Citizens Review Board.

Jim Burcell, Former Judge in Butte Silver Bow spoke in favor of the Citizens Review Board.

Beth McGolshen, Member of the Citizens Review Board in Butte spoke in favor of the Citizens Review Board. She also mentioned the Chair in Butte is Judy Martz.

Tom Crane, Member of the Citizens Review Board in Great Falls spoke in favor of the Citizens Review Board.

Chuck Hunter, Administrator of Child Family Services indicated the subcommittee should consider a fiscal choice as well as a policy choice on how foster care cases are viewed by citizens. He indicated concern that establishing the Citizens Review Board as a program would create a two tier system. Foster Care Staff and the Citizen's Review Board staff. He also indicated two

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different tiers do not yield significantly different outcomes for children. He emphasized the subcommittee has a choice.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. BOB DAVIES, Chairman

CYNDIE LOCKETT, Secretary

BD/CL

EXHIBIT (jgh35aad)